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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,245	03/25/2004	M. William Bowsher	BOMDENUS	1755

20738 7590 03/28/2007
THOMAS P O'CONNELL
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EXAMINER

MANAHAN, TODD E

ART UNIT	PAPER NUMBER
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3732

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/28/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/810,245	BOWSHER, M. WILLIAM	
	Examiner	Art Unit	
	Todd E. Manahan	3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-28, 32, 35-45 and 49-68 is/are pending in the application.
- 4a) Of the above claim(s) 24-28, 32, 35-45 and 54-58 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 49-53 and 59-63 is/are allowed.
- 6) ☒ Claim(s) 4-23 and 64-68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election of Species I, claims 1-23, 29-31, 33, 34, 46-53, and 59-63, in the reply filed on 05 June 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 24-28, 32, 35-45, 54-58 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 05 June 2006.

Claim Objections

Claims 15 and 16 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 15 and 16 recite an activating means comprising an activating switch, however these elements have been previously recited in lines 7-12 of base claim 9.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4-6, 12-18, 22, and 64 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4, line 6, "the mean for retaining dental floss" lacks a prior antecedent.

In claim 12, lines 3-5, "the dispensing ring" and the accumulating ring" both lack prior antecedents.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11 and 67 are rejected under 35 U.S.C. 102(b) as being anticipated by Cheng (United States Patent No. 5,199,452).

Cheng discloses a dental hygiene apparatus comprising a dispensing member 12, a means 24 for retaining dental floss relative to the dispensing member, an accumulating member 14, and a means 32 for accumulating dental floss relative to the accumulating member. The dispensing member and the accumulating member are color coded (see col. 4, lines 39-47). The means for retaining floss comprise a dispensing bobbin and an accumulating bobbin. The bobbins are enclosed in a housing of the respective dispensing and accumulating members.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 5, and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng in view of Altshuler (United States Patent No. 5,415,188).

Cheng discloses the invention essentially as claimed except for the means for assuring unidirectional rotation of the dispensing bobbin. Altshuler discloses a flossing device wherein means are provided on both the dispensing bobbin and the accumulating bobbin are each provided with means for assuring unidirectional rotation (col. 2, lines 9-31). It would have been obvious to one skilled in the art to provide the dispensing bobbin of the device of Cheng with means for assuring unidirectional rotation of the dispensing bobbin in view of Altshuler in order to prevent used floss from being wound on the dispensing bobbin, thus assuring only clean floss will be dispensed therefrom.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng in view of Altshuler as applied to claim 4 above, and further in view of Winters (United States Patent No. 5,680,875).

Winters discloses a flossing device wherein the floss spool is contained in a housing and includes a ring for receiving the finger of the user (see figure 10). It would have been obvious to one skilled in the art to provide the device of Cheng as modified by Altshuler with a ring on the accumulating member in view of Winters in order to allow the user a better grip on the device.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng in view of Winters.

Cheng discloses the invention essentially as claimed except for the dispensing member and the accumulating member each including a ring. Winters discloses a flossing device wherein the floss spool is contained in a housing and includes a ring for receiving the finger of the user

(see figure 10). It would have been obvious to one skilled in the art to provide the device of Cheng with a ring on each of the dispensing member and the accumulating member in view of Winters in order to allow the user a better grip on the device.

Claims 9, 10, 23, 65 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng in view of Alvarez (United States Patent Publication No. 2004/0163665).

Cheng discloses the invention essentially as claimed except for the means for inducing automatic accumulation of floss. Alvarez discloses a flossing device having means for inducing automatic accumulation of floss on the accumulating bobbin and also a scrubber element 36. It would have been obvious to one skilled in the art to provide the device of Cheng with means for inducing automatic accumulation of floss in view of Alvarez in order to make it easier for the user to refresh the section of floss when it becomes used. Regarding claim 23, it would have been further obvious also in view of Alvarez to provide a scrubber member in order to neutralize any germs that are on the floss.

Claims 12-17 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng in view of Alvarez as applied to claim 9 above, and further in view of Winters.

Winters discloses a flossing device wherein the floss spool is contained in a housing and includes a ring for receiving the finger of the user (see figure 10). It would have been obvious to one skilled in the art to provide the device of Cheng as modified by Alvarez with a ring on the accumulating member in view of Winters in order to allow the user a better grip on the device.

Claims 18 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng in view of Alvarez and Winters as applied to claims 16 and 65 above, and further in view of Altshuler.

Altshuler discloses a flossing device wherein means are provided with a coil spring for rotating the accumulating bobbin. It would have been obvious to one skilled in the art to provide the device of the combination Cheng as modified by Alvarez and Winters with a coil spring for rotating the accumulating bobbin in view of Altshuler instead of a motor in order to provide a more simplified device that does not need to utilize batteries.

Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng in view of Winters as applied to claim 7 above, and further in view of Sullivan (United States Patent No. 3,745,788).

Sullivan discloses a means for varying the size of a ring comprising a removable sizing member 14. It would have been obvious to one skilled in the art to provide the device of Cheng as modified by Winters with a removable sizing member for varying the size of the ring in view of Sullivan in order to assure proper fitting of the ring on the finger of the user.

Allowable Subject Matter

Claims 49-53 and 59-63 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:
The prior art fails to show or teach the device in combination with the floss retaining knuckles as recited in claim 50 and show in figures 27a-27c of the instant application.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

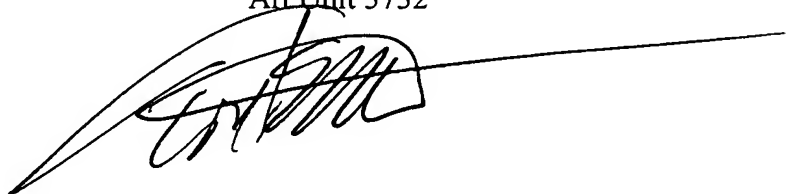
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd E. Manahan whose telephone number is 571 272- 4713. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Rodriguez can be reached on 571 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Todd E. Manahan
Primary Examiner
Art Unit 3732

T.E. Manahan
3/23/2007

A handwritten signature in black ink, appearing to read 'T.E. Manahan', is written over the printed name and title. The signature is stylized with a large, sweeping initial 'T' and 'M'.